

Application No. 08/650,709

Reply to Office Action of September 17, 2003

REMARKS/ARGUMENTS

Favorable reconsideration of the present application is respectfully requested.

The withdrawn claims have been cancelled. New Claims 31 and 32 have been introduced. Claim 31 corresponds to Claim 28, but further recites a conveyor positioned and arranged to convey a layer of hydrous polymer gel to the nip as a substantially planar sheet. Basis for this can be found in the figures. Claim 32 corresponds to Claim 29.

Claim 28 has been amended in accordance with the Examiner's suggestion, although Applicants respectfully submit that Claim 28 was already definite under 35 U.S.C. § 112. The scope of the claim has not been altered.

Prosecution has been reopened in the present application, following the filing of an Appeal Brief on July 23, 2003. Claim 28 has been rejected under 35 U.S.C. § 102 as being anticipated by the newly cited U.S. patent to Finke et al. Additionally, dependent Claim 29 has been rejected under 35 U.S.C. § 103 as being obvious over Finke et al. in view of the newly cited U.S. patent to Anderson et al.

Initially, the finality of the outstanding rejections is respectfully traversed. The finality of a new ground of rejection after the submission of an Appeal Brief is governed by M.P.E.P. § 1208.02. The M.P.E.P. there permits a new ground of rejection to be made final only where it was necessitated by an amendment or prior art presented in an IDS. Neither of these exceptions applies to the present application. No Information Disclosure Statement was filed with the Appeal Brief. The Amendment filed with the Appeal Brief did not necessitate the new ground of rejection, but merely corrected the dependency of the dependent claims. It did not modify the independent Claim 28, and so could not have necessitated a new ground of rejection of this claim. The finality of the outstanding Official Action is therefore clearly improper, and it is respectfully requested that it be withdrawn.

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Applicants respectfully submit that the subject matter of Claim 28 is not anticipated by Finke et al. The Examiner there alleges that Finke et al. discloses a first cutting roll at 19 and a back-up roll at 21. However, no such first cutting roll 19 is in fact present in Finke et al.

Finke et al. discloses an apparatus for producing a transverse offset in a web fabric to form bags. To this end, a flexible web material 4 is drawn over rollers 20 and 21, at which they are respectively cut by knives 10-11 and 12.

Applicants note the chain lines designated as "18" and "19" in Figure 1. However, these elements are simply gear wheels and not cutting rolls. Thus, the alleged "first cutting roll 19" is not present, and Finke et al. lacks the claimed first cutting roll forming a nip with a backup roll.

New Claim 31 also recites the first cutting roll, and further recites a conveyor positioned and arranged to convey a layer of hydrous polymer gel to the nip as a substantially planar sheet. As previously discussed, the hydrous polymer gel may be soft or brittle, and is easily torn. By conveying the hydrous polymer gel to the nip as a substantially planar sheet, the conveyor avoids damaging the gel prior to its being cut. In contrast, the fixture 1 comprising a contacting roll pair in Finke et al. would bend and squeeze the hydrous polymer gel, and so does not comprise a conveyor positioned and arranged to convey a layer of hydrous polymer gel to the "nip" as a substantially planar sheet. Any sheet of hydrous polymer gel reaching the contacting roll pair of the fixture 1 would be unable to pass between the rolls without being completely deformed. For this reason, as well as the reasons noted above with respect to Claim 28, Claim 31 clearly defines over Finke et al.

Claims 29 and 32 further recite that the first cutting roll has at least one circumferentially extending cutting element including a cutting edge. Claim 29 had been rejected under 35 U.S.C. § 103 as being obvious over Finke et al. in view of the further

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reference to Anderson et al. The Examiner there noted that Finke et al. discloses a circumferentially extending cutting element (10 or 11) on the "cutting roll" 18, and so postulated that it would have been obvious for those skilled in the art to instead have provided a circumferentially extending cutting element on the "cutting roll" 19 of Finke et al., especially in view of Anderson et al. which also is alleged to have a circumferential cutting blade.

However, regardless of what teaching Anderson et al. may provide with respect to cutting blades, those skilled in the art would not have found it obvious to have mounted a circumferentially extending cutting blade on the same shaft 14 which supports the axial cutting blade 12 in Finke et al., since this would be contrary to the inventive feature of Finke et al. Finke et al. describes that conventional offset perforation devices were problematic because several knives were required to produce the perforations, which knives "cannot always be attached to their knife holders with required accuracy" (column 1, lines 27-28). Finke et al. therefore proposes that the various knives should be "attached to the knife holders of separate knife shafts" (column 1, line 52). "By mounting the knives on separate knife shafts the knives on each shaft are at least no longer inclined in various directions to the knife shaft" (column 1, lines 57-59). Thus, the solution of Finke et al. to the problem confronting the prior art was to mount the knives 10-11 on a separate shaft from knife 12. Clearly, those skilled in the art would not have found it obvious to instead mount the knives 10-11 and 12 of Finke et al. on the same shaft. In this regard, the Examiner's attention is respectfully drawn to M.P.E.P. § 2143.01: "THE PRIOR ART MUST SUGGEST THE DESIRABILITY OF THE CLAIMED INVENTION." Here, the prior art instead teaches against the invention. Claims 29 and 32 are thus not obvious over the cited prior art.

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Applicants therefore believe that the present application is in a condition for allowance and respectfully solicit an early Notice of Allowability.

Respectfully submitted,

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